IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.8972 of 2003

Dated: 12-10-2007

Between:

Smt. K. Lalitha w/o K. Laxmaiah.

... Petitioner

and

1. The Assistant Divisional Engineer,
   AP Transco, Ashok Nagar,
   Near Indira Park,
   Hyderabad and another.

... Respondents

ORDER:

This writ petition is filed seeking a *mandamus* to declare the action of respondents in not receiving the application for giving fresh electricity connection to the house bearing H.No.1-2-365/9/A&B purchased by the petitioner admeasuring 130 square yards situated at Poolbagh, Domalguda, Hyderabad, as arbitrary and illegal and consequently direct respondents to give fresh electricity connection to petitioner's house bearing No.1-2-365/9/A&B situated at Poolbagh, Domalguda, Hyderabad.

2. Brief facts, according to the petitioner, are as follows: Originally one Mr. V. Rajalingam is the owner of a multi unit house, bearing No.1-2-365,
1-2-365/8/A, 1-2-365/9, 1-2-365/9/A and 1-2-365/9/B situated at Poolbagh, which was let out to different tenants and different electricity connections were also given in the name of the said Rajalingam. The

said Rajalingam died and the said property was partitioned among his sons and widow viz., V. Sangaiah, V. Viswanadham and V. Shakunthala in 1986. The petitioner agreed to purchase the property or the portion fell to the share of
Viswanadham for an amount of Rs.5,00,000/- provided if the sale deed is executed in her favour by all the legal heirs of Rajalingam and accordingly all the legal heirs of Rajalingam executed a registered sale deed on
18-02-2003 in her favour and the possession of the said property was also handed over to her. It is stated by the petitioner that the said portion, which she purchased does not have any meter and the electricity is given from the portion of the house where meter No.F-40-16732 is located. Immediately after purchase of the said portion, petitioner gave a representation to the respondents requesting them to provide a fresh electricity connection by providing a meter, but the same was not accepted. It is further stated by her that as there are certain arrears in payment of electricity bills for the Meter No.F-40-16732, the respondents are threatening that the power supply would be disconnected. Assailing the said action, she approached this Court and filed the present writ petition.

3. A detailed counter affidavit is filed denying various averments made in the affidavit filed in support of the writ petition and it is also stated in the counter affidavit that the portion that was purchased by the petitioner is having two service connections i.e. F40-16732 and F4-6897 and the same are located in the first and second portions of the building. It is also stated that the petitioner never approached the authorities and gave any representation seeking fresh electricity connection by providing a meter.

4. Heard Mr. K. Laxmaiah, learned counsel for the petitioner and Sri O. Manohar Reddy, learned Standing Counsel for the respondents.

5. From the facts it is clear that Mr. V. Rajalingam is the absolute owner of the premises and after his death, his legal representatives inherited the property and the property in question fell to the share of Mr. V. Viswanadham from whom the petitioner purchased. As per 8.4 of the General Terms and Conditions of Supply, Distribution and Retail Supply licencees in Andhra Pradesh formulated under Clause 21 and other relevant Clauses of the company's distribution and retail supply

licences, the seller of the property should clear all the dues to the Company before selling such property and if the seller did not clear the dues as mentioned above, the Company may refuse to supply electricity to the premises through the already existing connection or refuse to give a new connection to the premises till all dues to the Company are cleared. If the said Rule is interpreted, this Court is of the view that the said disconnection or threat to disconnect power supply is justified.

But, however, the said Rule came into force only in the year 2006. Whereas the arrears of bills relate to the period, 2002 at which point of time these Rules were not in existence. Further, according to the present Rules, there is another provision incorporated under 5.9.6, which deals with Dismantlement of Service Line after Termination of Agreement**.** According to the said Rule or Clause, on the termination of the LT or HT Agreement, the company is entitled to dismantle the service line and remove the materials, Meter, cut out etc. Further, it is also envisaged in the said Clause or Rule that after termination of the Agreement,

the consumer shall be treated as a fresh applicant for the purpose of giving supply to the same premises when applied for by him provided there are no dues against the previous service connection. As the petitioner is coming forward saying that she purchased the premises in the year 2003 and she has nothing to do with the arrears of the said V. Rajalingam or his son Viswanadham and further as it is also stated that the petitioner has also given an application seeking new connection,

this Court is of the view that the respondents may consider the feasibility of following Clause 5.9.6 and issue a fresh connection to the petitioner's premises. However, as the same is in dispute and the learned Standing Counsel appearing for the respondents has stated that no such application was ever given, the petitioner is hereby directed to give a fresh application to the respondents within a period of four weeks from the date of receipt of a copy of this order, so that the respondents may consider the same and provide power connection in terms of Clause 5.9.6.

6. With the above directions, the writ petition is disposed of. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.12-10-2007
GLV